

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN ASSEMBLY MAY 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1074

Introduced by Assembly Member Fuentes

February 18, 2011

An act to add Section 1714.55 to the Civil Code, relating to personal liability, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1074, as amended, Fuentes. Personal liability immunity: telecommunications service providers.

Existing law, the Warren-911-Emergency Assistance Act, requires every local public agency to establish and operate a telephone system that automatically connects a person dialing 9-1-1 to an established public safety answering point through normal telephone service facilities. Under existing law, a telecommunications service provider is generally liable for any claim, damage, or loss caused by their conduct.

This bill would provide that a provider of telecommunications service, or other service, that is involved in providing 9-1-1 service, as defined, in accordance with the Warren-911-Emergency Assistance Act is not liable for any civil claim, damage, or loss caused by an act or omission in the design, development, maintenance, or provision of 9-1-1 service, unless the act or omission that proximately caused the claim, damage, or loss constituted gross negligence, wanton or willful misconduct, or intentional misconduct.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1714.55 is added to the Civil Code,
- 2 immediately following 1714.5, to read:
- 3 1714.55. (a) A retail or wholesale service provider of
- 4 telecommunications service, or other service, involved in providing
- 5 9-1-1 service in accordance with the Warren-911-Emergency
- 6 Assistance Act (Article 6 (commencing with Section 53100) of
- 7 Chapter 1 of Part 1 of Division 2 of Title 5 of the Government
- 8 Code), shall not be liable for any civil claim, damage, or loss
- 9 caused by an act or omission in the design, development,
- 10 installation, maintenance, or provision of 9-1-1 service, unless the
- 11 act or omission that proximately caused the claim, damage, or loss
- 12 constituted gross negligence, wanton or willful misconduct, or
- 13 intentional misconduct.
- 14 (b) For purposes of this section:
- 15 (1) "Public safety agency" means a public safety agency as
- 16 defined in accordance with the Warren-911-Emergency Assistance
- 17 Act (Article 6 (commencing with Section 53100) of Chapter 1 of
- 18 Part 1 of Division 2 of Title 5 of the Government Code).
- 19 (2) "9-1-1 service" means a telecommunications service, or
- 20 other wireline or wireless service, that provides to the user of the
- 21 public telephone system the ability to reach a public safety agency
- 22 by utilizing the digits 9-1-1 or otherwise facilitates the provision
- 23 of emergency services pursuant to the Warren-911-Emergency
- 24 Assistance Act (Article 6 (commencing with Section 53100) of
- 25 Chapter 1 of Part 1 of Division 2 of Title 5 of the Government
- 26 Code). "9-1-1 service" includes a 9-1-1 service that utilizes in
- 27 whole or in part an Internet Protocol.
- 28 (c) This section shall not apply to services provided under tariff.
- 29 (d) This section shall not be construed to modify the liability
- 30 of a manufacturer, distributor, or other person arising from a claim,
- 31 damage, or loss, related to the operation or performance of an
- 32 end-user device that is not related to the provision of 9-1-1 service.

1 SEC. 2. The Legislature finds and declares that the general
2 public increasingly relies on wireless telephones for their primary
3 means of communication, and that more 9-1-1 calls are now placed
4 on wireless telephones than on traditional landline telephones.
5 People expect to be able to call for help using the technology that
6 they use for their everyday communications. Next Generation
7 9-1-1 (NG 9-1-1), which utilizes Internet Protocol-based
8 communication technology, will improve a 9-1-1 operator's ability
9 to locate a wireless caller who cannot speak or give their location,
10 and make possible future applications that will allow emergency
11 responders to receive text messages, real-time images of the site
12 of an emergency before they arrive on the scene, telemetric data
13 from crash sensors in automobiles even when the injured occupants
14 cannot call 9-1-1, and a wealth of other data that can save lives,
15 including their own. NG 9-1-1 involves service providers beyond
16 the traditional landline telephone companies that have provided
17 9-1-1 service for decades. The Federal Communications
18 Commission has an open proceeding to adopt the rapid adoption
19 of NG 9-1-1 by the states. It is the intent of the Legislature that
20 state law should be amended to encourage qualified service
21 providers beyond traditional landline telephone companies to
22 develop NG 9-1-1 services, and that California should lead the
23 nation in the deployment of NG 9-1-1.

24 SEC. 3. *This act is an urgency statute necessary for the*
25 *immediate preservation of the public peace, health, or safety within*
26 *the meaning of Article IV of the Constitution and shall go into*
27 *immediate effect. The facts constituting the necessity are:*

28 *In order to exempt telecommunications service providers*
29 *involved in providing 9-1-1 service from liability for a civil claim,*
30 *damage, or loss caused by an act or omission relating to the 9-1-1*
31 *service, as specified, at the earliest time possible, it is necessary*
32 *that this act take effect immediately.*